**From History Alive: The Dred Scott Decision**

In 1857, the slavery controversy shifted from the bloodied floor of Congress to the Supreme Court. The Court was about to decide a case concerning a Missouri slave named Dred Scott. Years earlier, Scott had traveled with his owner to Wisconsin, where slavery was banned by the Missouri Compromise. Upon his return to Missouri, Scott went to court to win his freedom. He argued that his stay in Wisconsin had made him a free man.

There were nine justices on the Supreme Court in 1857. Five of them, including Chief Justice Roger Taney, were from the South. Four were from the North. The justices had two key questions to decide. First, as a slave, was Dred Scott a citizen who had the right to bring a case before a federal court? Second, did his time in Wisconsin make him a free man?

Taney, however, hoped to use the Scott case to settle the slavery controversy once and for all. And so he asked the Court to consider two more questions: Did Congress have the power to make any laws at all concerning slavery in the territories? And, if so, was the Missouri Compromise a constitutional use of that power?

On March 6, 1857, Chief Justice Roger Taney prepared to deliver the most important decision of his career. Nearly 80 years old, the chief justice had long been opposed to slavery. As a young Maryland lawyer, he had publicly declared that “slavery is a blot upon our national character and every lover of freedom confidently hopes that it will be…wiped away.” True to his words, Taney had gone on to free his own slaves. Many observers wondered whether he and his fellow justices would now free Dred Scott as well.

The chief justice began by reviewing the facts of Dred Scott’s case. Then he dropped the first of two judicial bombshells. By a vote of five to four, the Court had decided that Scott could not sue for his freedom in a federal court because he was not a citizen. Nor, said Taney, could Scott become a citizen. No African American, whether slave or free, was an American citizen—or could ever become one.

Next, Taney dropped bombshell number two. The Court had also rejected Scott’s argument that his stay in Wisconsin had made him a free man. The reason was simple. The Missouri Compromise was unconstitutional. Taney’s argument went something like this. Slaves are property. The Fifth Amendment to the Constitution says that property cannot be taken from people without due process of law—that is, a proper court hearing. Banning slavery in a territory, Taney reasoned, is the same as taking property away from slaveholders who would like to bring their slaves into that territory. And that is unconstitutional. Rather than banning slavery, Congress has a constitutional responsibility to protect the property rights of slaveholders in a territory.

The Dred Scott decision delighted slaveholders. They hoped that, at long last, the issue of slavery in the territories had been settled—and in their favor. Many northerners, however, were stunned and enraged by the Court’s ruling. The New York Tribune called the decision a “wicked and false judgment.” Another New York newspaper expressed outrage in its bold headlines such as the following:

“The Decision of the Supreme Court Is the Moral Assassination of a Race and Cannot Be Obeyed!”

Lincoln’s opponent in the Senate race was Senator Stephen Douglas. The Illinois senator saw no reason why the nation could not go on half-slave and half-free. When Lincoln challenged him to debate the slavery issue, Douglas agreed.

During the debates, Douglas argued that the Dred Scott decision had put the slavery issue to rest. Lincoln disagreed. In his eyes, slavery was a moral, not a legal, issue. He declared, “The real issue in this controversy—the one pressing on every mind—is the sentiment of one class [group] that looks upon the institution of slavery as a wrong, and of the other class that does not look upon it as a wrong.”

An excerpt from **Lincoln’s “House Divided” Speech**

The several points of the Dred Scott decision, in connection with Senator Douglas' "care not" policy, constitute the piece of machinery in its present state of advancement. This was the third point gained. The working points of that machinery are:

 First, that no Negro slave, imported as such from Africa, and no descendant of such slave can ever be a citizen of any state in the sense of that term as used in the Constitution of the United States. This point is made in order to deprive the Negro, in every possible event, of the benefit of that provision of the United States Constitution, which declares that "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states."

**Summary Sentence: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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  Second, that, "subject to the Constitution of the United States," neither Congress nor a territorial legislature can exclude slavery from any United States territory. This point is made in order that individual men may fill up the territories with slaves, without danger of losing them as property, and thus enhance the chances of permanency to the institution through all the future.

**Summary Sentence: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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  Third, that whether the holding a Negro in actual slavery in a free state makes him free, as against the holder, the United States courts will not decide, but will leave to be decided by the courts of any slave state the Negro may be forced into by the master. This point is made, not to be pressed immediately but, if acquiesced in for awhile, and apparently endorsed by the people at an election, then to sustain the logical conclusion that what Dred Scott's master might lawfully do with Dred Scott in the free state of Illinois, every other master may lawfully do with any other one, or 1,000 slaves, in Illinois or in any other free state.

**Summary Sentence: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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 Auxiliary to all this, and working hand in hand with it, the Nebraska doctrine, or what is left of it, is to educate and mold public opinion, at least Northern public opinion, not to care whether slavery is voted down or voted up. This shows exactly where we now are; and partially, also, whither we are tending.

  It will throw additional light on the latter to go back and run the mind over the string of historical facts already stated. Several things will now appear less dark and mysterious than they did when they were transpiring. The people were to be left "perfectly free," "subject only to the Constitution." What the Constitution had to do with it, outsiders could not then see. Plainly enough, now, it was an exactly fitted niche for the Dred Scott decision to afterward come in and declare the perfect freedom of the people to be just no freedom at all.

An excerpt from **Stephen Douglas’ Freeport Doctrine**

The next question propounded to me by Mr. Lincoln is, Can the people of a Territory in any lawful way, against the wishes of any citizen of the United States, exclude slavery from their limits prior to the formation of a State constitution? I answer emphatically, as Mr. Lincoln has heard me answer a hundred times from every stump in Illinois, that in my opinion the people of a Territory can, by lawful means, exclude slavery from their limits prior to the formation of a State constitution.

**Lincoln argued that the Dred Scott decision meant that the new territories would now be slave states. How does Douglas attempt to refute this?**

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Mr. Lincoln knew that I had answered that question over and over again. He heard me argue the Nebraska bill on that principle all over the State in 1854, in 1855, and in 1856, and he has no excuse for pretending to be in doubt as to my position on that question. It matters not what way the Supreme Court may hereafter decide as to the abstract question whether slavery may or may not go into a Territory under the Constitution, the people have the lawful means to introduce it or exclude it as they please, for the reason that slavery cannot exist a day or an hour anywhere, unless it is supported by local police regulations. Those police regulations can only be established by the local legislature; and if the people are opposed to slavery, they will elect representatives to that body who will by unfriendly legislation effectually prevent the introduction of it into their midst. If, on the contrary, they are for it, their legislation will favor its extension. Hence, no matter what the decision of the Supreme Court may be on that abstract question, still the right of the people to make a Slave Territory or a Free Territory is perfect and complete under the Nebraska bill. I hope Mr. Lincoln deems my answer satisfactory on that point.

**Douglas says that, “the right of the people to make a Slave Territory or Free Territory is perfect and complete.” Using what you know about the Kansas-Nebraska act, argue either for or against Douglas’ statement here.**

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